

REMARKS

Claims 459-460, 463-469 and 471-473 remain in this application. Claims 461-462 were canceled, and claims 1-458 and 470 were previously canceled.

Claim 459, and dependent claims 460, 463-469 and 471-473, dependent thereon, have been amended to require that the processor further comprise a program to start the bargain by continuously generating bargain prices for buyers and sellers. This procedure will continue until a point is reached where: (1) an acceptable price is arrived at, (2) said buyer or said seller stop bargaining; (3) said product becomes unavailable; (4) said bargain price generated by said system reaches its limit; (5) said buyer or said seller runs out of bonus chances or does not request additional chances; or (6) said predetermined time period allotted for bargaining has expired. Additionally, claim 459 has been amended to require that said processor is operative with a program to validate a received bargain offer signal from the buyer, or a sell offer signal from the seller, thereby determining whether the offer meets predetermined validation criteria. These limitations represent the limitations delineated by claims 461 and 462, which have been canceled.

Entry of the above noted amendments to the claims is respectfully requested.

Applicant's system, as recited by current claims 459-460, 463-469 and 471-473, provides an effective, reliable and cost effective electronic bargaining system that (i) enables buyers to bargain with the system in order to negotiate an optimum bargain price and (ii) enables sellers to sell or list their products by bargaining with the system to negotiate the best-offered price. This system operates as an optimized middleman

between the buyer and the seller, permitting purchases and sales of goods to be transacted at prices that represent the best bargain obtained by the two parties.

The system comprises a “Business Controller” (or “processor”) unit adapted to process buyer requests and to initiate a bargain process structured to provide an optimum price for both the buyer and the system. The Business Controller unit is further adapted to process seller requests and to initiate a bargain process structured to provide an optimum price offered to the seller by the system, the Business Controller being connected with a database unit that searches the database to generate a search result (and process the search results according to the buyer and seller requests).

As amended, applicant’s system, as recited by current claims 459-460, 463-469 and 471-473, requires that the processor further comprise a program to start the bargaining process by continuously generating bargain prices for buyers and sellers until a point, as indicated supra, is reached. Further, applicant’s system requires that the processor validates a received bargain offer signal from the buyer, or a sell offer signal from the seller, thereby determining whether the offer meets predetermined validation criteria.

Depending on the preferred embodiment, the system further comprises a database controller unit having all required databases such as payment database, billing database, buyer database, seller database, and product database; and a transceiver disposed in communication with the Business Controller unit, for transmitting Business Controller generated responses to buyers and the sellers and receiving buyer and seller requests to initiate a bargain process.

Claim Rejections – 35 USC § 102

Claim 459 was rejected under 35 U.S.C. 102(b) as being anticipated by Walker (US Patent 5,794,207).

Walker discloses a method and apparatus for effectuating bilateral *buyer-driven commerce*. The Walker method allows prospective buyers of goods and services to communicate a binding purchase offer *globally* to potential sellers. Potential sellers may then conveniently search for relevant buyer purchase offers, and for sellers potentially to bind a buyer to a contract based on the buyer's purchase offer. In a preferred embodiment, the apparatus of the Walker invention includes a controller which receives binding purchase offers from prospective buyers. The controller makes purchase offers available *globally* to potential sellers. Potential sellers then have the option to accept a purchase offer and thus bind the corresponding buyer to a contract. The method and apparatus of Walker have applications on the Internet as well as conventional communications systems such as voice telephony.

As noted in applicant's communication dated July 16, 2008, Walker does **not** teach bargaining or negotiating structured to provide an *optimum price* mutually agreed to by both buyer and seller. Rather, Walker teaches a method where purchase offers are **published** globally to potential sellers, thereby providing potential sellers with a venue to view the various purchase offers for the merchandise. Presumably the seller will select the highest purchase offer. Once selected, the buyer is contractually bound to purchase the item being sold. Therefore, this procedure does not provide for negotiations between a potential buyer and seller.

It is submitted that in one embodiment of Walker, a potential seller is given the option to respond to a purchase offer with a binding counteroffer. The seller transmits

the counteroffer to the central controller, which then forwards the counteroffer to the buyer who is given the option of accepting it. Although this embodiment does provide the seller with an opportunity to communicate a purchase offer, it also fails to allow negotiations between the potential buyer and seller.

By contrast, applicant's system, as recited by current claims 459-460, 463-469 and 471-473, requires that buyer and seller "carry out a bargaining process" to arrive at a mutually agreed to purchase price, where the system serves as a "middleman" in the bargaining process. Thus, rather than *merely* publishing a purchase offer globally and providing the seller with an opportunity to respond with *one* counteroffer (as is taught by Walker), applicant's bargaining system requires the potential buyer and seller to **bargain** with each other. By this, applicant's system requires that the buyer and seller have an opportunity to consider multiple offers in order to negotiate a purchase price.

As currently amended, the claims require the processor of applicant's system to start the bargaining process by continuously generating bargain prices for buyers and sellers. As noted supra, this procedure will continue until a point is reached where: (1) an acceptable price is arrived at, (2) said buyer or said seller stop bargaining; (3) said product becomes unavailable; (4) said bargain price generated by said system reaches its limit; (5) said buyer or said seller runs out of bonus chances or does not request additional chances; or (6) said predetermined time period allotted for bargaining has expired. Advantageously, this process of continuously generating prices increases the likelihood that both seller and buyer will be satisfied with the ultimate purchase price.

Additionally, claim 459 has been amended to require that the processor validate a received bargain offer signal from the buyer, or a sell offer signal from the seller, thereby

determining whether the offer meets predetermined validation criteria. Neither this feature, nor the processor that continuously generates bargain prices, is taught by Walker.

In view of the amendments to the claims and remarks set forth above, it is submitted that claim 459 structurally and functionally differentiates Walker.

Accordingly, reconsideration of the rejection of claim 459 under 35 U.S.C. 102(b) as being anticipated by Walker is respectfully requested.

Claim Rejections – 35 USC § 103

Claim 460 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, as in claim 459, and in further view of Official Notice.

The Examiner has indicated that it would have been obvious to one of ordinary skill in the art to have modified Walker by incorporating methodologies directed to ensuring authenticity and appraisal value of a potential purchase, as is old and well known in the art, thereby ensuring that the potential purchase item is an advertised and priced by the seller.

It is submitted that claim 460 is a preferred embodiment of the device recited by claim 459 and is dependent thereon. It contains all the limitations of the base claim to which it depends.

Therefore, modification of Walker as indicated by the Examiner would not produce the system recited by claim 460. The resulting system would not comprise a system where buyer and seller *bargain* to reach a mutually agreed to purchase price. Further, the resulting system would not comprise a processor that determines if a

purchase offer satisfies predetermined validation criteria, nor would it comprise a processor that continuously generates bargain prices.

Accordingly, reconsideration of the rejection of claim 460 under 35 U.S.C. 103(a) as being unpatentable over Walker, as in claim 459, and in further view of Official Notice is respectfully requested.

Claims 461-469 and 471-473 were rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, as in claim 459 and in further view of Miller (Miller, Michael. *The Complete Idiot's Guide to Online Auctions*. Que. 1999. pp. 1-331).

Miller is a guide to “online auctions” that are defined (by the Miller reference) as being an attempt to “coax” potential buyers into bidding “just a little bit more” for a piece of merchandise up for bid, where the bidding is executed by special auction software on an auction website (see Miller page 8). The bidding by potential buyers is against other potential buyers, and the buyer offering the highest bid ultimately obtains the merchandise.

The Examiner has indicated that it would have been obvious to one of ordinary skill in the art to have modified Walker and Miller by incorporating a method by which “to monitor the status of a shipment, as disclosed by Miller, allowing the purchaser to remain informed about the possible arrival date of said purchase.” In addition, the Examiner has indicated that it would have been obvious to have modified Walker, Miller and Official Notice by “incorporating traditional advertising and promotional methodologies, as are old and well known, to entice customers to engage to further purchases.”

Claims 463-469 and 471-473 depend from currently amended claim 459, which is submitted to be patentable for the reasons set forth above. Inasmuch as claims 463-469 and 471-473 contain all the limitations of independent, amended claim 459, it is submitted that these dependent claims are also patentable over Walker, Miller and Official Notice.

Accordingly, for reasons discussed supra, reconsideration of the rejection of claims 463-469 and 471-473 under 35 USC 103(a) as being unpatentable over Walker, Miller and Official Notice is respectfully requested.

Conclusion

In view of the amendments to the claims and the remarks set forth above, it is respectfully submitted that the present application is in allowable condition. Entry of the amendments to the claims and allowance of present claims 459-460, 463-469 and 471-473 are earnestly solicited.

Respectfully submitted,
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A handwritten signature in black ink, appearing to read "Ernest D. Buff", written over a solid black horizontal line.

By _____
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